

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Agriculture and Rural Development, to which was referred Senate Bill 250, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 agriculture and animals and to make an appropriation.
- 4 Page 1, between lines 9 and 10, begin a new paragraph and insert:
- 5 "SECTION 2. IC 6-2.5-7-5, AS AMENDED BY P.L.122-2006,
- 6 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2007]: Sec. 5. (a) Each retail merchant who dispenses
- 8 gasoline or special fuel from a metered pump shall, in the manner
- 9 prescribed in IC 6-2.5-6, report to the department the following
- 10 information:
- 11 (1) The total number of gallons of gasoline sold from a metered
- 12 pump during the period covered by the report.
- 13 (2) The total amount of money received from the sale of gasoline
- 14 described in subdivision (1) during the period covered by the
- 15 report.

1 (3) That portion of the amount described in subdivision (2) which
 2 represents state and federal taxes imposed under this article,
 3 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

4 (4) The total number of gallons of special fuel sold from a
 5 metered pump during the period covered by the report.

6 (5) The total amount of money received from the sale of special
 7 fuel during the period covered by the report.

8 (6) That portion of the amount described in subdivision (5) that
 9 represents state and federal taxes imposed under this article,
 10 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

11 (7) The total number of gallons of E85 sold from a metered pump
 12 during the period covered by the report.

13 (b) Concurrently with filing the report, the retail merchant shall
 14 remit the state gross retail tax in an amount which equals five and
 15 sixty-six hundredths percent (5.66%) of the gross receipts, including
 16 state gross retail taxes but excluding Indiana and federal gasoline and
 17 special fuel taxes, received by the retail merchant from the sale of the
 18 gasoline and special fuel that is covered by the report and on which the
 19 retail merchant was required to collect state gross retail tax. The retail
 20 merchant shall remit that amount regardless of the amount of state
 21 gross retail tax which he has actually collected under this chapter.
 22 However, the retail merchant is entitled to deduct and retain the
 23 amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

24 (c) A retail merchant is entitled to deduct from the amount of state
 25 gross retail tax required to be remitted under subsection (b) the amount
 26 determined under STEP THREE of the following formula:

27 STEP ONE: Determine:

28 (A) the sum of the prepayment amounts made during the
 29 period covered by the retail merchant's report; minus

30 (B) the sum of prepayment amounts collected by the retail
 31 merchant, in the merchant's capacity as a qualified distributor,
 32 during the period covered by the retail merchant's report.

33 STEP TWO: Subject to subsection (d), for reporting periods
 34 ending before July 1, 2008, determine the product of:

35 (A) ten cents (\$0.10); multiplied by

36 (B) the number of gallons of E85 sold at retail by the retail
 37 merchant during the period covered by the retail merchant's
 38 report.

1 STEP THREE: Add the amounts determined under STEPS ONE
2 and TWO.

3 For purposes of this section, a prepayment of the gross retail tax is
4 presumed to occur on the date on which it is invoiced.

5 (d) The total amount of deductions allowed under subsection (c)
6 STEP TWO may not exceed two million dollars (\$2,000,000) **plus**
7 **amounts deposited under IC 15-4-10-24.6** for all retail merchants in
8 all reporting periods. A retail merchant is not required to apply for an
9 allocation of deductions under subsection (c) STEP TWO. If the
10 department determines that the sum of:

11 (1) the deductions that would otherwise be reported under
12 subsection (c) STEP TWO for a reporting period; plus

13 (2) the total amount of deductions granted under subsection (c)
14 STEP TWO in all preceding reporting periods;

15 will exceed two million dollars (\$2,000,000) **plus amounts deposited**
16 **under IC 15-4-10-24.6**, the department shall publish in the Indiana
17 Register a notice that the deduction program under subsection (c) STEP
18 TWO is terminated after the date specified in the notice and that no
19 additional deductions will be granted for retail transactions occurring
20 after the date specified in the notice.

21 SECTION 2. IC 15-4-10-1 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies
23 to all kinds and varieties of corn ~~including seed corn~~, marketed or sold
24 as corn by a producer in Indiana except sweet corn and popcorn. As
25 used in this chapter, "corn" does not include sweet corn, **seed corn**, or
26 popcorn.

27 SECTION 3. IC 15-4-10-3.5 IS ADDED TO THE INDIANA CODE
28 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
29 1, 2007]: **Sec. 3.5. As used in this chapter, "dean" refers to dean of**
30 **the school of agriculture at Purdue University.**

31 SECTION 4. IC 15-4-10-6 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. **(a)** As used in this
33 chapter, "first purchaser" means a person who is engaged in Indiana in
34 the business of buying grain from producers. **The term refers to a**
35 **person buying or otherwise acquiring corn from:**

36 **(1) the producer of the corn; or**

37 **(2) the Commodity Credit Corporation, if the corn is pledged**
38 **as collateral for a loan issued under a price support loan**

program administered by the Commodity Credit Corporation.

(b) The term does not include a buyer of grain who buys less than fifty thousand (50,000) bushels of grain annually for the buyer's own use as seed or feed.

SECTION 5. IC 15-4-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. As used in this chapter, "marketing year" means the twelve (12) month period beginning ~~September~~ **October** 1 and ending the following ~~August 31~~ **September 30**.

SECTION 6. IC 15-4-10-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. As used in this chapter, "promotion" means:**

- (1) communication directly with corn producers;**
- (2) technical assistance; and**
- (3) trade marketing activities;**

to enhance the marketing opportunities of corn or corn products in domestic and foreign markets.

SECTION 7. IC 15-4-10-10.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.7. As used in this chapter, "research" means any type of study to advance the:**

- (1) marketability;**
- (2) production;**
- (3) product development;**
- (4) quality; or**
- (5) functional or nutritional value;**

of corn or corn products, including any research activity designed to identify and analyze barriers to domestic and foreign sales of corn or corn products.

SECTION 8. IC 15-4-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) If ~~an elected~~ a member of the council **elected or appointed under section 16(a) or 16(d) of this chapter** ceases to meet one (1) or more of the qualifications set forth in section 12(b) of this chapter, the member's term of office terminates and the member's office becomes vacant.

(b) When an elected council member's office becomes vacant before

the expiration of the member's term of office, the council shall fill the vacancy by appointing a replacement member who meets the qualifications set forth in section 12(b) of this chapter. The appointee shall serve for the remainder of the unexpired term.

(c) When the office of a council member appointed under section 16(c) of this chapter to represent first purchaser organizations becomes vacant before the expiration of the member's term of office, the ~~director~~ **dean** shall fill the vacancy by appointing a replacement member who represents ~~a the largest trade group that represents~~ first ~~purchaser organization; purchasers.~~ The appointee shall serve for the remainder of the unexpired term.

(d) When an appointed council member's office representing the senate becomes vacant before the expiration of the member's term of office, the president pro tempore of the senate shall fill the vacancy by appointing a replacement member who represents the senate and is a member of the same political party as the appointed council member who vacated the office. When an appointed council member's office representing the house of representatives becomes vacant before the expiration of the member's term of office, the speaker of the house of representatives shall fill the vacancy by appointing a replacement member who represents the house of representatives and is a member of the same political party as the appointed council member who vacated the office. An appointee under this subsection shall serve for the remainder of the unexpired term.

SECTION 9. IC 15-4-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. **(a)** When necessary, the council may appoint individuals who hold offices of importance to the corn industry or have special expertise concerning that industry to participate in the work of the council. but these individuals may not participate in votes taken by the council **but are eligible for reimbursement for traveling expenses.**

(b) A person appointed under this section serves a term of three (3) years.

(c) A person appointed under this section may not serve for more than three (3) consecutive full terms.

SECTION 10. IC 15-4-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) One (1) council member shall be elected from each of the following districts:

- 1 DISTRICT 1. The counties of Lake, Newton, Jasper, Benton,
 2 Porter, LaPorte, Starke, White, and Pulaski.
- 3 DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall,
 4 Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.
- 5 DISTRICT 3. The counties of LaGrange, Steuben, Noble, Dekalb,
 6 Whitley, Allen, Huntington, Wells, and Adams.
- 7 DISTRICT 4. The counties of Montgomery, Fountain, Warren,
 8 Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.
- 9 DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard,
 10 Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan,
 11 Johnson, Shelby, Rush, Bartholomew, and Decatur.
- 12 DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry,
 13 Randolph, Wayne, Fayette, and Union.
- 14 DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess,
 15 Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and
 16 Spencer.
- 17 DISTRICT 8. The counties of Monroe, Brown, Lawrence,
 18 Jackson, Orange, Washington, Perry, Crawford, Harrison, and
 19 Floyd.
- 20 DISTRICT 9. The counties of Franklin, Jennings, Jefferson,
 21 Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.
- 22 ~~DISTRICT 10. All counties in Indiana.~~
- 23 (b) The ~~dean~~ **secretary** of the ~~school of~~ agriculture at Purdue
 24 University or the ~~dean's~~ **secretary's** designee shall serve as an ex
 25 officio member of the council.
- 26 (c) The ~~director~~ **dean** shall appoint two (2) representatives of **the**
 27 **largest trade group representing** first ~~purchaser organizations~~
 28 **purchasers** to serve as members of the council.
- 29 (d) **The dean shall appoint two (2) council members to represent**
 30 **all counties in Indiana who meet the requirements under section**
 31 **12(b) of this chapter. The dean shall select one (1) member from**
 32 **nominations submitted by the largest general farm organization in**
 33 **the state and one (1) member from nominations submitted by the**
 34 **second largest general farm organization in Indiana.**
- 35 ~~(e) The president pro tempore of the senate shall appoint one (1)~~
 36 ~~member of the senate to serve as a member of the council. The speaker~~
 37 ~~of the house of representatives shall appoint one (1) member of the~~
 38 ~~house of representatives to serve as a member of the council. The~~

members appointed under this subsection are ex officio members of the council. These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

(e) **Four (4) members serve on the council, to be appointed as follows:**

(1) One (1) member appointed by the president pro tempore of the senate.

(2) One (1) member appointed by the minority leader of the senate.

(3) One (1) member appointed by the speaker of the house of representatives.

(4) One (1) member appointed by the minority leader of the house of representatives.

Members appointed under this subsection serve at the pleasure of the appointing authority.

SECTION 11. IC 15-4-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. An election of a council member shall be held in a district in the year in which the term of the district's council member is to expire. Between ~~April~~ **January** 1 and ~~April~~ **March** 15 of that year, the council shall notify the producers of the district of the impending election by publishing one (1) notice in a statewide agricultural publication and by making information available to the news media in the district.

SECTION 12. IC 15-4-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) The ballot for the election of a district council member must bear the name of each producer who:

(1) meets the qualifications set forth in section 12(b) of this chapter; and

(2) files with the ~~director,~~ **council**, before June ~~16~~ **30** of the year of the election, a petition in support of candidacy signed by ten (10) other producers who reside in the district.

(b) The ~~director~~ **council** shall provide petition forms upon request and shall make forms available:

(1) at cooperative extension service offices located in the district;
 The director shall determine the position of names on the ballot
 by drawing lots and shall provide the producers who have
 qualified to have their names on the ballot with advance notice of
 the time and place of the drawing; and
 (2) via the council's Internet web site.

(c) The council shall allow a producer to request a ballot
 through the council's Internet web site.

~~(c)~~ (d) No names other than the names of the producers who have
 qualified under this subsection may be printed on the ballot by the
 director. A name may not be written in on the ballot by a producer.
 council. All names on the ballot must be listed in alphabetical order
 based on the producers' surname.

(e) The council shall require that each producer who submits a
 ballot provides a separate attestation that the person is an eligible
 producer.

SECTION 13. IC 15-4-10-19 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) For the purposes
 of the election of a district council member, the ~~director~~ council shall
 provide an absentee ballot to every producer who:

- (1) resides outside Indiana or expects to be absent from the
 district in which the producer resides on the day of the election;
 and
- (2) requests an absentee ballot from the ~~director~~ no council not
 less than fifteen (15) days and not more than thirty (30) days
 before the election. and
- ~~(3) files with the director a notarized affidavit swearing or
 affirming that the producer is eligible to vote in the election.~~

(b) A producer's absentee ballot is not valid unless the ~~director~~
 council receives the ballot and the affidavit from the producer at least
 two (2) working days before the election.

SECTION 14. IC 15-4-10-21 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. The election of a
 district council member shall be conducted by the council in August at
 voting places located within the district. The winner of an election
 takes office on the following ~~September~~ October 1.

SECTION 15. IC 15-4-10-22 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) The council

1 shall do the following:

2 (1) Elect a ~~chairman, vice chairman,~~ **president, vice president,**
 3 secretary, treasurer, and other officers the council considers
 4 necessary.

5 (2) Employ personnel and contract for services that are necessary
 6 for the proper implementation of this chapter.

7 (3) Bond the treasurer and such other persons as necessary to
 8 ensure adequate protection of funds received and administered by
 9 the council.

10 (4) Authorize the expenditure of funds and the contracting of
 11 expenditures to conduct proper activities under this chapter.

12 (5) Annually establish priorities and prepare and approve a budget
 13 consistent with the estimated resources of the council and the
 14 scope of this chapter.

15 (6) Annually publish an activities ~~and financial~~ report **and audit**
 16 and present ~~this the~~ report **and audit** to the ~~director dean and the~~
 17 **legislative council. The report and audit must:**

18 **(A) be sent to the legislative council in an electronic format**
 19 **under IC 5-14-6; and**

20 **(B) be available on the council's Internet web site.**

21 (7) Procure and evaluate data and information necessary for the
 22 proper implementation of this chapter.

23 (8) Formulate and execute assessment procedures and methods of
 24 collection.

25 (9) Receive and investigate, or cause to be investigated,
 26 complaints and violations of this chapter and take necessary
 27 action within its authority.

28 **(10) Adopt bylaws and operating procedures governing**
 29 **operations of the council.**

30 **(11) Keep accurate accounts of all receipts and disbursements**
 31 **of funds handled by the council and have the receipts and**
 32 **disbursements audited annually by a certified public**
 33 **accountant.**

34 **(12) Establish and maintain an Internet web site.**

35 ~~(10)~~ **(13)** Take any other action necessary for the proper
 36 implementation of this chapter.

37 (b) Seven (7) affirmative votes are required for the council to take
 38 action.

SECTION 16. IC 15-4-10-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) The council shall meet at least ~~once in each of the following periods:~~

(1) ~~January, February, and March;~~

(2) ~~April, May, and June;~~

(3) ~~July, August, and September;~~

(4) ~~October, November, and December;~~

three (3) times in each marketing year at the call of the president or at the request of two-thirds (2/3) of the members of the council.

(b) The council shall comply with the requirements under IC 5-14-1.5 (open door law).

SECTION 17. IC 15-4-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money it receives under this chapter, including ~~assessments, gifts, and grants;~~ **any gifts or grants that are given for the express purpose of implementing this chapter,** in ~~any~~ **the same** way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development, **promotion, and research.**

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

SECTION 18. IC 15-4-10-24.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 24.6. (a) The Indiana corn market E85 account is established within the state general fund for the purpose of market development. The account shall be administered by the council. The account consists of assessments the council deposits under subsection (b).**

(b) Twenty-five percent (25%) of the net amount of money collected by the council each marketing year under section 26 of this chapter must be deposited quarterly into the account to be used to provide E85 retail merchant deductions allowed under IC 6-2.5-7-5(d). Money in the account may not be used for any other purpose except as allowed under this section.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) On July 1 of each year the budget agency shall determine the amount of deductions allowed under IC 6-2.5-7-5(d) and transfer from the account to the state general fund any amount of deductions allowed under IC 6-2.5-7-5(d) that exceeds two million dollars (\$2,000,000).

(e) Money in the account at the end of a state fiscal year does not revert to the state general fund. Money in the account may not be transferred except as allowed under this section.

(f) Money in the account is continually appropriated to the budget agency for purposes of this section.

SECTION 19. IC 15-4-10-26, AS AMENDED BY P.L.1-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) An assessment of:

(1) one-quarter cent (\$.0025) per bushel until December 31, 2009; and

(2) one-half cent (\$.005) per bushel is ~~permitted after~~ **December 31, 2009;**

~~shall be collected~~ on all corn sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once and shall be collected by the first purchaser. ~~if the producer exercises the option under subsection (b) to be included in the assessment. An assessment shall not be conducted on the producer without the producer's written consent.~~ The rate of the assessment imposed by this section may be ~~increased~~ **changed** only by the general assembly.

~~(b) In conjunction with the producer's first settlement with the first purchaser following June 30, 2001, the first purchaser shall make available to the producer the forms granting the producer the option to be included in the assessment and inform the producer of the option to be included. If the producer desires to be included in the assessment, the producer shall complete and sign a form, in writing, indicating the producer's desire to be included in the assessment permitted by subsection (a). It is a producer's obligation to return enrollment forms to a first purchaser. The first purchaser shall keep a record of each producer's desire to be included in the assessment, as indicated on the~~

completed forms. Forms completed by a producer shall remain in effect until repealed in writing by the producer and delivered to the first purchaser. The initial enrollment by producers who want to participate in the corn marketing program must occur from July 1, 2001, through August 31, 2001. Corn market development assessments collected by a first purchaser begin on September 15, 2001. A change in participation by a producer to be included in the assessment or to discontinue the assessment does not take effect until July 1 following the producer's election to change. The department of agriculture shall prescribe the forms to be used under this subsection and distribute the forms to the first purchaser prior to July 1, 2001. The council shall reimburse the department of agriculture for the costs of preparation and distribution of the forms required by this subsection from the funds the council receives under this chapter. Auditing fees collected from this program and all other programs by the Indiana grain buyers and warehouse licensing agency revert to the office of agriculture account to cover administrative costs.

(c) If the producer indicates the desire to be included in the assessment permitted under subsection (a) by following the procedure described in subsection (b) The first purchaser of a quantity of corn shall deduct the assessment on the corn from the sum of money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:

- (1) January, February, and March.
- (2) April, May, and June.
- (3) July, August, and September.
- (4) October, November, and December.

~~(d)~~ (c) At the end of each period, the first purchaser shall remit to the council all assessments collected during the period. A first purchaser who remits all assessments collected during a period within fifteen ~~(15)~~ **thirty (30)** days after the end of the period is entitled to retain three percent (3%) of the total of the assessments as a handling fee.

SECTION 20. IC 15-4-10-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 26.5. (a) If a producer has sold corn and the state assessment was deducted from the sale price of**

1 the corn, the producer may secure a refund equal to the amount
2 deducted upon filing a written application.

3 (b) A producer's application for a refund under this section
4 must be made to the council within one hundred eighty (180) days
5 after the state assessment is deducted from the sale price of the
6 producer's corn.

7 (c) The council shall provide application forms to a first
8 purchaser for purposes of this section upon request and make
9 application forms available on the council's Internet web site. The
10 first purchaser shall make an application form available to each
11 producer along with each settlement form that is shown a
12 deduction.

13 (d) Proof that an assessment has been deducted from the sale
14 price of the producer's corn must be attached to each application
15 for a refund submitted under this section by a producer. The proof
16 that an assessment was deducted may be in the form of a duplicate
17 or an original copy of the purchase invoice or settlement sheet
18 from the first purchaser. The claim form and proof of assessment
19 may be mailed or faxed to the council. The refund form must
20 clearly state how to request a refund and the address where it must
21 be mailed or faxed.

22 (e) If a refund is due under this section, the council shall remit
23 the refund to the producer not later than thirty (30) days after the
24 date the producer's application is received.

25 SECTION 21. IC 15-4-10-27 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) A first
27 purchaser shall keep detailed records of all assessments collected and
28 remitted under this chapter **for at least three (3) years.**

29 (b) Upon request, a first purchaser shall supply the council with any
30 information from records kept under subsection (a).

31 (c) **The council may periodically audit a first purchaser's**
32 **checkoff assessment and remittance records as kept under**
33 **subsection (a). An audit must be conducted by a qualified public**
34 **accountant of the council's choosing, and the costs of the audit shall**
35 **be paid by the council.**

36 SECTION 22. IC 15-4-10-30 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) If a first
38 purchaser fails to remit the assessments collected during a period

defined in section 26 of this chapter within ~~forty-five (45)~~ **thirty (30)** days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

- (1) the status and amount of the assessments due; and
- (2) any reasons why the council should not bring legal action against the first purchaser.

(b) After allowing a first purchaser the opportunity to present comments, the council:

- (1) ~~shall~~ **may** adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate; ~~and~~
- (2) may assess a penalty against the first purchaser; ~~of no more than ten percent (10%) of the amount of any assessments not remitted within forty-five (45) days after the end of the period.~~

(3) shall:

- (A) assess a fee for an unpaid assessment due the council, from a person responsible for remitting assessments, at the rate of two percent (2%) of the amount of the unpaid assessment each month, beginning with the day following the date the assessment is due under this subsection; and**
- (B) if there is any remaining amount due after the assessment of the fee under clause (A), assess a fee at the same rate on the corresponding day of each month thereafter until the entire amount of the unpaid assessment is paid;**

(4) shall compute the amounts payable on unpaid assessments under this section monthly and include any unpaid late charges previously applied under this section; and

(5) shall determine the date of a payment for purposes of this subsection by the postmark applied to the remitting envelope.

(c) If a first purchaser fails to remit assessments after being allowed to present comments under subsection (a) or to pay any penalty assessed under subsection (b), the council may bring a civil action against the first purchaser in the circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

(1) a judgment in the amount of all unremitted assessments and any unpaid penalty; and

(2) an award of the costs of bringing the action.

SECTION 23. IC 15-4-10-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 32. (a) Proceeds of the checkoff assessment collected by the council under this chapter may not be used to influence legislation or governmental action or policy.**

(b) Proceeds of the assessment collected under this chapter may be used to communicate information relating to the:

(1) conduct;

(2) implementation; or

(3) results;

of promotion, research, and market development activities to appropriate government officials.

(c) After January 1, 2009, proceeds of the assessment collected under this chapter may be used for action designed to market corn or corn products directly to a foreign government or a political subdivision of a foreign government. However, not more than five percent (5%) of the annual amount collected may be used under this subsection.

SECTION 24. IC 15-4-10-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 33. (a) Beginning October 1, 2009, if at least twenty-five percent (25%) of the assessment is refunded during a marketing year, the council shall:**

(1) cease collecting the assessment on the subsequent January 11 on the subsequent year;

(2) maintain a sufficient amount of money to pay for any refunds requested by producers; and

(3) request that the legislative council have legislation prepared to repeal the corn market law.

(b) The dean and the council shall report the amounts collected and refunded to the legislative council. The report to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 25. IC 15-4-10-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 34. The checkoff assessment and**

- 1 remittance record form must:
- 2 (1) be in a format that allows a corn producer to submit the
- 3 same form for an assessment refund;
- 4 (2) contain the address and fax number of where the
- 5 assessment refund form may be sent;
- 6 (3) information concerning procedures to claim an assessment
- 7 refund; and
- 8 (4) any other information determined necessary by the
- 9 council.".

10 Page 4, after line 28, begin a new paragraph and insert:

11 "SECTION 28. [EFFECTIVE JULY 1, 2007] (a) The definitions in

12 IC 15-4-10 apply to this SECTION.

13 (b) Money in the Indiana corn market development account

14 under IC 15-4-10-24.5 shall be used to pay for the administrative

15 costs of the requirements under IC 15-4-10, as amended by this act.

16 However, if the money in the Indiana corn market development

17 account is insufficient to pay for the administrative costs, the

18 council may borrow funds to pay for the administrative costs.

19 (c) Before September 1, 2007, the council shall prepare and

20 deliver all necessary forms concerning assessment refunds and

21 information concerning the operation of the program to all first

22 producers.

23 (d) This SECTION expires July 1, 2008.

24 SECTION 29 [EFFECTIVE JULY 1, 2007] (a) The definitions in

25 IC 15-4-10 apply to this SECTION.

1 **(b) Notwithstanding IC 15-4-10-15(b), as amended by this act,**
2 **the three (3) year term limit begins for individuals appointed by**
3 **the council after July 1, 2007.**

4 **(c) This SECTION expires July 1, 2010."**

5 Renumber all SECTIONS consecutively.

(Reference is to SB 250 as printed February 21, 2007.)

and when so amended that said bill do pass.

Representative Pflum